

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff

v.

ERNESTO TRASLAVINA,

Defendant

Case No.: 2:87-cr-00166-APG-LRL

**Order (1) Granting in Part Motion for
Return of Property and (2) Granting
Motion to Take Notice**

[ECF Nos. 432, 439]

In connection with this criminal prosecution, the United States apparently seized from Ernesto Traslavina and forfeited a house and airplane. Traslavina now moves for the return of the house and airplane (or payment for their value if they cannot be returned), arguing that he “was not given legal notice of the forfeiture proceedings.” ECF No. 432 at 1. The Ninth Circuit has already ruled that Traslavina is barred from seeking the return of the airplane. *United States v. Traslavina*, 111 F. App’x 469, 470 (9th Cir. 2004). I thus deny that portion of his motion.

The United States requested additional time to respond to the motion for return of property, which I granted. ECF Nos. 433, 435. The United States did not respond by the extended deadline, so I again extended it. ECF No. 441. The United States still has not responded to the motion. Under Local Rule of Criminal Practice 47-3, the failure to respond to a motion is deemed consent to granting it. I therefore grant Traslavina’s motion as to return of the house.

Because the United States did not respond to the motion, I do not know whether the house can be returned to Traslavina. If not, I will need to schedule a hearing to determine its value. The parties are to confer about whether the house can be returned to Traslavina and, if

1 not, (1) what discovery is needed to prepare for a hearing on the house's value, and (2) the
2 amount of time needed for that hearing.

3 Traslavina also filed a "motion to take notice," requesting that I (1) take judicial notice of
4 the fact that the United States improperly withdrew funds from his social security payment, and
5 (2) order the United States to cease all collection actions. ECF No. 439. The United States
6 admits it improperly withheld those funds and has processed a refund. ECF No. 440. I therefore
7 grant the motion.

8 I THEREFORE ORDER that Traslavina's motion for return of property (**ECF No. 432**)
9 **is granted in part**, as to the house only.

10 I FURTHER ORDER the parties to confer about whether the house can be returned to
11 Traslavina and, if not, (1) what discovery is needed to prepare for a hearing on the value of the
12 house, and (2) the amount of time needed for that hearing. The parties will file a joint status
13 report on the results of their conference by April 21, 2025.

14 I FURTHER ORDER that Traslavina's motion to take notice (**ECF No. 439**) **is granted**.
15 The United States must refund to Traslavina \$236.85 by April 21, 2025. If the refund is not
16 received by that date, Traslavina may file a motion for sanctions.

17 DATED this 21st day of March, 2025.

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20 ANDREW P. GORDON
21 CHIEF UNITED STATES DISTRICT JUDGE
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